

United States Department of State  
*Bureau of Oceans and International  
Environmental and Scientific Affairs*

# Limits in the Seas

No. 140

**Mauritius:**

**Archipelagic and other Maritime Claims and Boundaries**



# **LIMITS IN THE SEAS**

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**MAURITIUS**

## **ARCHIPELAGIC AND OTHER MARITIME CLAIMS AND BOUNDARIES**

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**Office of Ocean and Polar Affairs  
Bureau of Oceans and International Environmental and Scientific Affairs  
U.S. Department of State**

This study is one of a series issued by the Office of Ocean and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs in the Department of State. The purpose of the series is to examine a coastal State's maritime claims and/or boundaries and assess their consistency with international law. This study represents the views of the United States Government only on the specific matters discussed therein and does not necessarily reflect an acceptance of the limits claimed.

This study, and earlier studies in this series, may be downloaded from <http://www.state.gov/e/oes/ocns/opa/c16065.htm>. Comments and questions should be emailed to [LimitsInTheSeas@state.gov](mailto:LimitsInTheSeas@state.gov). Principal analysts for this study are Brian Melchior and Kevin Baumert.

## Introduction

This study analyzes the maritime claims and maritime boundaries of the Republic of Mauritius, including its archipelagic baseline claim. The Maritime Zones (Baselines and Delineating Lines) Regulations 2005 (Annex 1 to this study) took effect on May 5, 2005, and established the coordinates of Mauritius' baselines, including archipelagic and other baselines.<sup>1</sup> The archipelagic and straight baselines are shown on Map 1 to this study. These Regulations were made in exercise of the powers conferred by sections 4 and 5 of Mauritius' Maritime Zones Act 2005, Act No. 2 of 2005 (Annex 2 to this study).<sup>2</sup> The Maritime Zones Act 2005 also established a 12-nautical mile (nm) territorial sea, a 24-nm contiguous zone and a 200-nm exclusive economic zone (EEZ). Mauritius ratified the UN Convention on the Law of the Sea (LOS Convention) and consented to be bound by the 1994 Agreement Relating to the Implementation of Part XI of the Convention on November 4, 1994.<sup>3</sup>

## Basis for Analysis

### Archipelagic States

The LOS Convention contains certain provisions related to archipelagic States. Article 46 provides that an “archipelagic State” means “a State constituted wholly by one or more archipelagos and may include other islands.” An “archipelago” is defined as “a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.”

Only an “archipelagic State” may draw archipelagic baselines. Article 47 sets out criteria to which an archipelagic State must adhere when establishing its archipelagic baselines (Annex 3 to this study).

Under Article 47.1, an archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago, provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1. In addition, the length of any baseline segment shall not exceed 100 nm except that up to 3 percent of the total number of baselines may have a length up to 125 nm (Article 47.2).

Additional provisions of Article 47 state that such baselines shall not depart to any appreciable extent from the general configuration of the archipelago; that such baselines shall not be drawn,

<sup>1</sup> The text of the Regulations is available from the UN Division for Ocean Affairs and the Law of the Sea (DOALOS), *Law of the Sea Bulletin* No. 67, at 13-38, with maps (2008), at: [http://www.un.org/Depts/los/doalos\\_publications/LOSBulletins/bulletinpdf/bulletin67e.pdf](http://www.un.org/Depts/los/doalos_publications/LOSBulletins/bulletinpdf/bulletin67e.pdf) and <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/MUS.htm>.

<sup>2</sup> The text of the Act is available from DOALOS, *Law of the Sea Bulletin* No. 62, at 52-60 (2007) at: [http://www.un.org/Depts/los/doalos\\_publications/LOSBulletins/bulletinpdf/bulletin62e.pdf](http://www.un.org/Depts/los/doalos_publications/LOSBulletins/bulletinpdf/bulletin62e.pdf).

<sup>3</sup> United Nations Convention on the Law of the Sea, Montego Bay, opened for signature Dec. 10, 1982, entered into force Nov. 10, 1994, 1833 UNTS 397, available from DOALOS, at: [http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/closindx.htm](http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm).

with noted exceptions, using low-tide elevations; and that the system of such baselines shall not be applied in such a manner as to cut off from the high seas or exclusive economic zone (EEZ) the territorial sea of another State (Article 47.3 - 47.5).

The LOS Convention further reflects the specific rights and duties given to archipelagic States over their land and water territory. Article 53 allows the archipelagic State to “designate sea lanes . . . suitable for the continuous and expeditious passage of foreign ships . . . through . . . its archipelagic waters and the adjacent territorial sea.” Also, Article 53.12 provides that “[i]f an archipelagic State does not designate sea lanes . . . , the right of archipelagic sea lanes passage may be exercised through the routes normally used for international navigation.”

### **Straight Baselines**

Article 7 of the LOS Convention (Annex 4 to this study) sets out the criteria for the drawing of straight baselines. Article 7.1 provides that coastal States may employ the method of straight baselines only if their coastal geography meets certain conditions, namely “in localities where the coastline is deeply indented and cut into” or where “there is a fringe of islands along the coast in its immediate vicinity.” Article 7.2 provides further that this method may be used “where because of the presence of a delta and other natural conditions the coastline is highly unstable.”

The International Court of Justice has observed that:

the method of straight baselines, which is an exception to the normal rules for the determination of baselines, may only be applied if a number of conditions are met. This method must be applied restrictively. Such conditions are primarily that either the coastline is deeply indented and cut into, or that there is a fringe of islands along the coast in its immediate vicinity.<sup>4</sup>

Additional provisions of Article 7 state that such baselines shall not depart to any appreciable extent from the general direction of the coast; that sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters; that such baselines shall not be drawn, with noted exceptions, to and from low-tide elevations; and that the system of such baselines may not be applied in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone (Article 7.3 - 7.6).

### **Normal Baseline / Reefs**

Article 5 of the LOS Convention provides that the normal baseline “is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.” Article 6 of the Convention pertains to cases of “islands situated on atolls or of islands having fringing reefs” and provides that, in such cases, “the baseline for measuring the breadth of the territorial sea is the seaward low- water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State.” Since most atolls possess one or more channels through the

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<sup>4</sup> *Case Concerning Maritime Delimitation and Territorial Questions Between Qatar and Bahrain* (merits), 2001, IJC Rep. 103, para. 212.

reefs, it is likely that States would be permitted to draw closing lines across such channels or other openings in the reef.<sup>5</sup>

## Bays

Article 10 of the LOS Convention (Annex 5 to this study) defines a “bay” and sets forth criteria for drawing baselines that enclose the waters of a bay as internal waters. Article 10.2 provides that an indentation may not “be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.” Article 10.4 and 10.5 provide that a bay closing line may not exceed 24 nm in length. Per Article 10.6, the Convention’s provisions regarding bays “do not apply to so-called ‘historic’ bays, or in any case where the system of straight baselines provided for in article 7 is applied.” To qualify as a historic bay requires open, effective, long term, and continuous exercise of authority over the body of water, coupled with acquiescence by foreign States in the exercise of that authority.<sup>6</sup>

## Analysis<sup>7</sup>

The Republic of Mauritius is an archipelagic State located in the Indian Ocean, east of the island of Madagascar and about 2,000 kilometers off the southeast coast of the African continent. Mauritius’ capital is Port Louis, located on the principal island of Mauritius. The Republic of Mauritius also consists of Rodrigues Island, and, approximately 350 nm east of the island of Mauritius, the islands of Agaléga and Cargados Carajos Shoals (Saint Brandon). The British Indian Ocean Territory is an overseas territory of the United Kingdom; however, it is claimed by Mauritius as the Chagos Archipelago.<sup>8</sup> Tromelin Island, which is administered as a French overseas territory, is disputed between Mauritius and France.<sup>9</sup>

## Baselines

Section 4 of Mauritius’ Maritime Zones Act 2005 authorizes the use of archipelagic baselines, straight baselines, normal baselines (including reef points and closing lines), or a combination of

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<sup>5</sup> DOALOS, *Baselines: An Examination of the Relevant Provisions of the United Nations Convention on the Law of the Sea*, at 10-12 (1989) (noting that “it may be inferred [from Article 6] that the enclosed waters [within a lagoon] can be regarded as internal waters” and that “[i]f the lagoon waters of atolls are to be considered as internal waters, it follows that it will be necessary to construct closing lines across the entrance channels.”).

<sup>6</sup> See, e.g., 1973 *Digest of United States Practice in International Law*, at 244-245.

<sup>7</sup> The analysis was conducted in ESRI ArcMap 10, using the Universal Transverse Mercator, Zone 40 (Brandon) and 42 (Chagos) South projections and are based on the World Geodetic System 1984 (WGS84).

<sup>8</sup> The U.S. government does not recognize the claims of the Republic of Mauritius to the Chagos Archipelago, which is under the sovereignty of the United Kingdom as the British Indian Ocean Territory. Any reference made in this document to the claims of Mauritius to Chagos Archipelago should not be construed as recognition by the U.S. Government. *See also*, United Kingdom Mission to the UN, diplomatic note No: 26/09, Mar. 19, 2009 and Mauritius’ response in diplomatic note No. 107853/09, June 9, 2009, available from DOALOS at: <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/MUS.htm>.

<sup>9</sup> See Permanent Mission of France to the UN, diplomatic note SG/sec No. 378, July 30, 2009 and Mauritius’ response in diplomatic note No. 11132/11, May 17, 2011, available at from DOALOS at: <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/MUS.htm>.

these methods.<sup>10</sup> In its 2005 Regulations, Mauritius utilizes all of these methods, as summarized in Table 1 and discussed below.

#### *Archipelagic Baselines*

Mauritius has used archipelagic baselines with respect to Saint Brandon and the Chagos Archipelago. Saint Brandon, located about 240 nm north of the island of Mauritius, is an atoll surmounted by islands, coral reefs, sand banks and shoals. Chagos Archipelago, located more than 1,100 nm northeast of the island of Mauritius, is a group of atolls, islands, and coral reefs. These two archipelagic baseline systems are composed of 35 archipelagic baseline segments, ranging in length from 0.13 nm (segment C46-47) to 80.05 nm (segment C70-C46), with a total length of 486.15 nm. To be consistent with the LOS Convention, each archipelagic baseline system must encompass an “archipelago,” as defined in Article 46 of the LOS Convention, and also satisfy the criteria set forth in Article 47.<sup>11</sup>

Both archipelagic baseline systems of Mauritius meet the water-to-land-area ratio set forth in Article 47.1:

#### **Saint Brandon**

Total Area = 1,034 square kilometers  
 Water Area = 765 square kilometers  
 Land Area = 269 square kilometers<sup>12</sup>  
 Water-to-land area ratio = 2.84:1

#### **Chagos Archipelago**

Total Area = 7,388 square kilometers  
 Water Area = 6,520 square kilometers  
 Land Area = 868 square kilometers<sup>13</sup>  
 Water-to-land area ratio = 7.5:1

**Table 1: Baseline Methods Employed by Mauritius**

<b>Island/Archipelago</b>	<b>Method</b>
Island of Mauritius	Normal baselines, including reef points and closing lines Straight baselines River and bay closing lines
Rodrigues Island	Normal baselines, including reef points and closing lines Historic bay closing line
Saint Brandon (Cargados Carajos Shoals)	Archipelagic baselines Normal baselines, including reef points and closing lines
Agalega Island	Normal baseline (reefs)
Tromelin Island	Normal baseline (reefs)
Chagos Archipelago	Archipelagic baselines Normal baseline (Nelsons), including reef closing lines (Salomon, Peros Banhos, Egmont, Diego Garcia)

<sup>10</sup> Maritime Zones Act 2005 (*supra* note 2, Annex 2 of this study). The use of the method described in Article 6 of the LOS Convention pertaining to reefs is also authorized.

<sup>11</sup> See II *United Nations Convention on the Law of the Sea, 1982: A Commentary* 430-431 para. 47.9(c)-(d) (Martinus Nijhoff Publishers, 1993).

<sup>12</sup> Land area calculation include waters within the atoll and fringing reefs.

<sup>13</sup> *Id.*

In accordance with Article 47.2 of the LOS Convention, none of the baseline segments exceed 100 nm in length. Annex 6 to this study lists the lengths of each baseline segment claimed by Mauritius.

The configuration of the baselines does not appear to depart to any appreciable extent from the general configuration of the archipelago (Article 47.3). None of the baselines appear to be drawn using low tide elevations (Article 47.4). The baselines are not drawn in a way that would cut off from the high seas or EEZ the territorial sea of another State (Article 47.5).

Therefore, Mauritius' archipelagic baseline systems set forth in the Maritime Zones (Baselines and Delineating Lines) Regulations 2005 appear to be consistent with Article 47 of the LOS Convention. However, Mauritius' archipelagic baseline system for the Chagos Archipelago includes the islands of the British Indian Ocean Territory, which are under the sovereignty of the United Kingdom. Accordingly, since Mauritius' archipelagic baseline system is based on British islands, the United States does not recognize this maritime claim.

### *Straight Baselines*

Mauritius has used straight baselines with respect to the island of Mauritius. Three segments are used (see Map 1):

- Straight baseline segment M2-M3, 27 nm in length, starts at an unnamed reef (baseline point M2) on the eastern coast of the island of Mauritius, north to Serpent Island (baseline point M3)
- Straight baseline segment M6-M7, 8.8 nm in length, starts at Serpent Island (baseline point M6), southwest to Pigeon House Rock (baseline point M7)
- Straight baseline segment M7-M8, 10.3 nm in length, starts at Pigeon House Rock (baseline point M7), south to the reef near Canonniers Point on the northwest coast of the islands of Mauritius.

Thus, the three straight baseline segments connect the island of Mauritius to two small offshore islands—Serpent Island and Pigeon House Rock—located to the north and northeast of the mainland of the island of Mauritius. They are more than 12 and 6 nm, respectively, from the coast of the island of Mauritius and 8.8 nm from one another. Given their location, distance offshore, and distance from one another, these islands do not constitute a “fringe of islands along the coast in its immediate vicinity.” Further, the first two segments depart significantly from the general direction of the coast of the island of Mauritius. Accordingly, these straight baselines do not conform to the requirements of Article 7 of the LOS Convention.

### *Normal Baseline / Reefs*

Mauritius uses the normal baseline with respect to the islands of Mauritius, Rodrigues, Saint Brandon, Agaléga, Tromelin, and Nelsons. Most of these islands are characterized by fringing reefs. Accordingly, Mauritius has used baseline points located on the “seaward low-water line of the reef,” as provided for in Article 6 of the LOS Convention. For the islands of Mauritius, Rodrigues, Saint Brandon, Egmont, Salomon, Peros Banhos, and Diego Garcia, Mauritius has

drawn closing lines between openings in the reef. Such closing lines appear to be permitted by the LOS Convention.<sup>14</sup>

### *Bays and Mouths of Rivers*

The Maritime Zones Act 2005 also authorizes the Prime Minister to prescribe the limits of Mauritius' internal waters, including for bays and river mouths (Section 5), and historic waters (Section 11).

Mauritius' 2005 Regulations describe six bay closing lines (and one river closing line) for the island of Mauritius (segments M11-M12, M17-M18, M26-M27, M28-M29, M40-M41, M58-M59). The coordinates set forth in the Regulations properly enclose these juridical bays in accordance with Article 10 of the LOS Convention. These bays pass the “semi-circle test” and none of the closing lines exceed 24 nm, per Articles 10.2 and 10.4, respectively, of the LOS Convention.

Mauritius' 2005 Regulations also describe one historic bay closing line, for Mathurin Bay on the island of Rodrigues (segment R30-R31). This line is 1.97 nm long. Mauritius' Territorial Sea Act of 1970, which has been repealed, did not mention historic waters.<sup>15</sup> Its Maritime Zones Act 1977 authorized the Minister to proclaim historic waters;<sup>16</sup> however, it appears as though none were proclaimed. Mathurin Bay is likewise not listed in a notable compilation of historic bays.<sup>17</sup> Accordingly, it does not appear that Mathurin Bay—apparently not claimed as historic until 2005—meets the criteria for an historic bay. The bay does not appear to satisfy the requirement, noted above, of acquiescence by foreign States of “open, effective, long term, and continuous exercise of authority over the body of water.”

### **Territorial Sea and other Maritime Zones**

Section 2 of the Maritime Zones Act 2005 provides that the archipelagic waters of Mauritius comprise those waters enclosed by the archipelagic baselines, and that its internal waters comprise those waters landward of other baselines and closing lines. Mauritius' 12-nm territorial sea and 24-nm contiguous zone, established in Sections 7 and 12 of the Act, are measured from the baselines. Section 14 established a 200-nm exclusive economic zone (EEZ) measured from the baselines.

Section 18 refers to Mauritius' continental shelf, extending 200 nm from the baseline from which the breadth of the territorial sea of Mauritius is measured, or further wherever the continental margin extends beyond this distance. With respect to continental shelf beyond 200 nm, Mauritius has made three communications to the Commission on the Limits of the Continental Shelf (CLCS) pursuant to paragraph 8 of Article 76 of the LOS Convention. On December 1, 2008, Seychelles and Mauritius made a joint submission with respect to the continental shelf in

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<sup>14</sup> See *supra*, note 5.

<sup>15</sup> See *Limits in the Seas* No. 41, analyzing the Maritime Zone Act 1970.

<sup>16</sup> Maritime Zones Act of 1977, Article 8, available from DOALOS at:

[http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/MUS\\_1977\\_Act.pdf](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/MUS_1977_Act.pdf).

<sup>17</sup> See C.R. Symmons, *Historic Waters in the Law of the Sea: A Modern Re-Appraisal* (Nijhoff, 2008).

the region of the Mascarene Plateau.<sup>18</sup> On May 6, 2009, Mauritius made a submission concerning the region of Rodrigues Island.<sup>19</sup> Finally, on May 29, 2009, Mauritius provided preliminary information on the outer limits of its continental shelf beyond 200 nm in the Chagos Archipelago region.<sup>20</sup>

The CLCS made its recommendations on March 30, 2011, with respect to the joint submission of December 1, 2008 concerning the outer limits of the continental shelf beyond 200 nm in the Mascarene Plateau region.<sup>21</sup> Seychelles and Mauritius have accepted these recommendations (see below, Maritime Boundaries).<sup>22</sup> The continental shelf beyond 200 nm of Seychelles and Mauritius in the Mascarene Plateau region is shown in Map 2.

## Navigation

Article 53 of the LOS Convention provides that all ships and aircraft enjoy the right of archipelagic sea lanes passage, either through designated sea lanes and air routes or, where no such designations have been made, through the routes normally used for international navigation. Mauritius' Maritime Zones Act 2005 does not mention this right. Sections 2, 8, 9, and 10 of the Act recognize the right of innocent passage through the archipelagic waters, territorial sea, and certain internal waters of Mauritius.

Section 10(1), which concerns "limits on exercise of right of innocent passage," provides that the Prime Minister may "designate the sea lanes and air routes to be used by foreign ships and aircraft in passage through or over any archipelagic waters, internal waters and territorial sea" and may also "prescribe traffic separation schemes." Considering that the legal regime of innocent passage concerns only ships and not aircraft, this may be an attempt by Mauritius to refer to archipelagic sea lanes passage (which unlike "innocent passage" includes overflight rights) and the designation of "sea lanes" that traverse archipelagic waters (LOS Convention, Article 53). An archipelagic State may designate such sea lanes, and also traffic separation schemes, provided that "an archipelagic State shall refer [such] proposals to the competent international organization with a view to their adoption" (Article 53, paragraphs 1 and 9). As the competent international organization, the International Maritime Organization (IMO) may "adopt

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<sup>18</sup> The Executive Summary of this submission is available from DOALOS at: [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/submission\\_musc.htm](http://www.un.org/Depts/los/clcs_new/submissions_files/submission_musc.htm).

<sup>19</sup> The Executive Summary of this submission is available from DOALOS at: [http://www.un.org/depts/los/clcs\\_new/submissions\\_files/submission\\_mus\\_36\\_2009.htm](http://www.un.org/depts/los/clcs_new/submissions_files/submission_mus_36_2009.htm).

<sup>20</sup> The preliminary information is available from DOALOS at: [http://www.un.org/depts/los/clcs\\_new/submissions\\_files/preliminary/mus\\_2009\\_preliminaryinfo.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/preliminary/mus_2009_preliminaryinfo.pdf). The preliminary information acknowledges the sovereignty dispute with the United Kingdom, at p. 11. On December 20, 2010 Mauritius instituted arbitration proceedings pursuant to Annex VII of the LOS Convention against the United Kingdom over this dispute. Additional information is available from the Permanent Court of Arbitration at: [http://www.pca-cpa.org/showpage.asp?pag\\_id=1429](http://www.pca-cpa.org/showpage.asp?pag_id=1429).

<sup>21</sup> See Joint submission by the Republic of Mauritius and the Republic of Seychelles in respect of the region of the Mascarene Plateau, dated December 1, 2008. On March 30, 2011 the CLCS transmitted its recommendations to the States and the UN Secretary-General. CLCS/70, para. 16. Both are available from DOALOS at:

[http://www.un.org/Depts/los/clcs\\_new/commission\\_submissions.htm](http://www.un.org/Depts/los/clcs_new/commission_submissions.htm).

<sup>22</sup> Joint letter from Mauritius and the Seychelles to the UN Secretary-General dated June 18, 2012, note verbale dated July 9, 2012, *Law of the Sea Bulletin* No. 79, at 25 (2013), available at: [http://www.un.org/depts/los/doalos\\_publications/LOSBulletins/bulletinpdf/bulletin79e.pdf](http://www.un.org/depts/los/doalos_publications/LOSBulletins/bulletinpdf/bulletin79e.pdf).

only such sea lanes and traffic separation schemes as may be agreed with the archipelagic State, after which the archipelagic State may designate, prescribe, or substitute them" (Article 53.9). As of July 2014, Mauritius had not designated sea lanes or prescribed traffic separation schemes, nor had it presented proposals to this effect to the IMO. Since no archipelagic sea lanes have been designated in accordance with the LOS Convention, the "right of archipelagic sea lane passage may be exercised through the routes normally used for international navigation" (Article 53.12).

Section 10(3) of the Act prohibits any ship carrying radioactive materials from passing through any part of the archipelagic waters, internal waters or territorial sea unless it has given prior notice to and obtained the prior authorization from the government of Mauritius. This impermissibly restricts the rights of innocent passage and archipelagic sea lanes passage and is not in conformity with the LOS Convention. All ships, regardless of their cargo, enjoy these passage rights. Article 23 of the LOS Convention requires "nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances" to "carry documents and observe special precautionary measures established for such ships by international agreements" when exercising the right of innocent passage. However, neither this provision nor any other provision of the Convention permits a coastal State to condition another State's exercise of the right of innocent passage on its prior authorization. Accordingly, these restrictions are not recognized by the United States.

### **Exclusive Economic Zone and Continental Shelf Jurisdiction**

Parts VI and VII of Mauritius' Maritime Zones Act 2005 describe the rights of Mauritius in its EEZ and continental shelf in a manner that appear to be consistent with the LOS Convention's Parts V (EEZ) and VI (Continental Shelf). The Act makes no mention of the rights and duties of other States in Mauritius' EEZ and continental shelf. Article 58 of the LOS Convention provides, *inter alia*, that all States enjoy in the EEZ the freedoms of the high seas referred to in Article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with other provisions of the LOS Convention. With respect to the continental shelf, all States are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of Article 79 of the LOS Convention.

Sections 17 and 21 of the Act provide that the Prime Minister of Mauritius may make regulations to, *inter alia*, regulate the laying of pipelines or cables in the EEZ and continental shelf.

### **Marine Scientific Research**

Part VIII of the Act addresses marine scientific research in Mauritius' maritime zones in a manner that appears to be consistent with Part XIII (Marine Scientific Research) of the LOS Convention.

## Underwater Cultural Heritage

Part IX of the Act addresses underwater cultural heritage (UCH) in Mauritius' maritime zones. Sections 24 and 25 regulating activities directed at UCH in waters under Mauritius' sovereignty and contiguous zone are consistent with Articles 2 (Territorial Sea), 33 (Contiguous Zone), and paragraph 2 of Article 303 (Archaeological and Historical Objects Found at Sea) of the LOS Convention. Section 26 authorizes Mauritius to regulate activities directed at UCH in its EEZ or on its continental shelf to prevent interference with the sovereign rights and jurisdiction of Mauritius. Under Article 303.1 of the LOS Convention, all nations share a duty to protect objects of an archaeological and historical nature found at sea and cooperate for this purpose. However, the LOS Convention limits a coastal State's jurisdiction over such objects to the seaward limit of the coastal State's 24-nm contiguous zone.

## Maritime Boundaries

Mauritius has established maritime boundaries with France (Réunion) and Seychelles. Tromelin Island, which is claimed by Mauritius, is administered by France as an overseas territory; in light of this dispute, no maritime boundary in this area has been delimited between Mauritius and France. Mauritius' maritime boundaries are shown on Map 2 to this study.

Mauritius' maritime boundary agreement with France, concluded in 1980, established a maritime boundary that separates the EEZs between the islands of Mauritius and Réunion (France).<sup>23</sup> The boundary consists of seven turning and terminal points and runs in a northwesterly-southeasterly direction. In the northwest, the boundary commences at a terminal point that is nearly 150 nm from the coasts of Réunion (France), Mauritius, and Tromelin. The total length of the boundary, which is a median line, is 364.8 nm.

Mauritius' maritime boundary agreement with Seychelles, concluded in 2008, establishes a maritime boundary that separates the EEZs of Mauritius (Island of Agalega) and Seychelles (Islands of Coëtivy, St. François, Providence and Farquhar).<sup>24</sup> The boundary is 508 nm in length and is defined by 33 points. The Mauritius-Seychelles agreement does not delimit their continental shelves, which extend beyond 200 nm. Seychelles and Mauritius have entered into two treaties for the joint exercise and management of their sovereign rights beyond 200 nm in that region.<sup>25</sup>

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<sup>23</sup> Convention between the Government of the French Republic and the Government of Mauritius on the Delimitation of the French and Mauritian Economic Zones between the Islands of Réunion and Mauritius, Paris, Apr. 2, 1980, entered into force Apr. 2, 1980; 1257 UNTS 62; II *International Maritime Boundaries* 1353; *Limits in the Seas* No. 95 (1982).

<sup>24</sup> Agreement between the Government of the Republic of Mauritius and the Government of the Republic of Seychelles on the Delimitation of the Exclusive Economic Zone between the two States, Port Louis, July 29, 2008, entered into force Nov. 19, 2008; *Law of the Sea Bulletin* No. 69, at 106-109 (2009); VI *International Maritime Boundaries* 4391-4402 (2011).

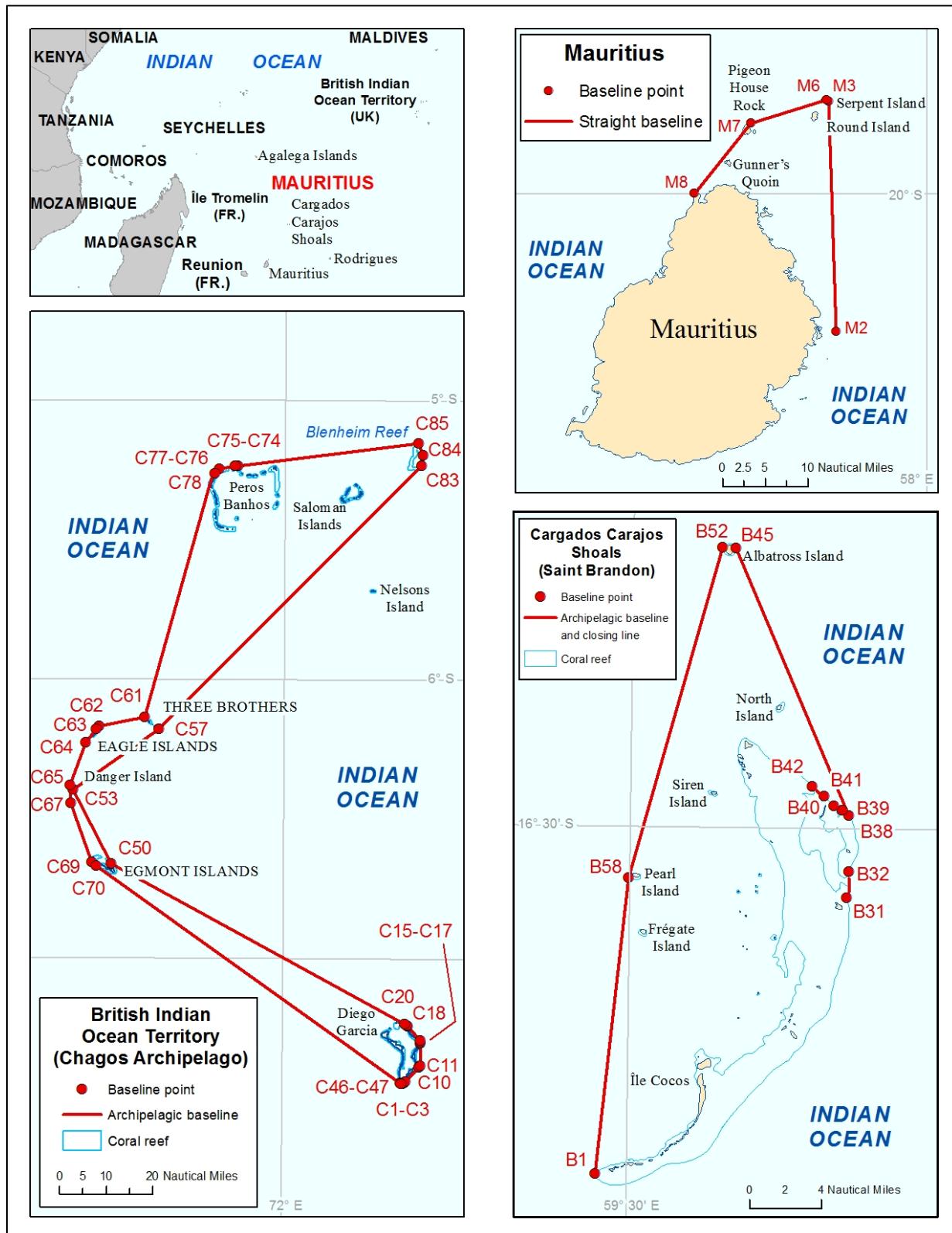
<sup>25</sup> Treaty Concerning the Joint Exercise of Sovereign Rights over the Continental Shelf in the Mascarene Plateau Region between the Government of the Republic of Seychelles and the Government of the Republic of Mauritius, Vacoas, Mar. 13, 2012, entered into force June 18, 2012, UNTS registration # I-49782, registration date July 11, 2012; *Law of the Sea Bulletin* No. 79, at 26-40; and Treaty Concerning the Joint Management of the Continental Shelf in the Mascarene Plateau Region between the Government of the Republic of Seychelles and the Government

## Conclusion

Both of Mauritius' archipelagic baseline systems set forth in the Maritime Zones (Baselines and Delineating Lines) Regulations 2005 appear to be consistent with Article 47 of the LOS Convention. However, because Mauritius' archipelagic baseline system for the Chagos Archipelago includes the islands of the British Indian Ocean Territory, the United States does not recognize this archipelagic baseline system. Mauritius' legislation does not recognize the right of archipelagic sea lanes passage, and Mauritius' requirement that ships carrying radioactive materials obtain authorization from the government of Mauritius prior to exercising the right of innocent passage or archipelagic sea lanes passage is not consistent with the LOS Convention.

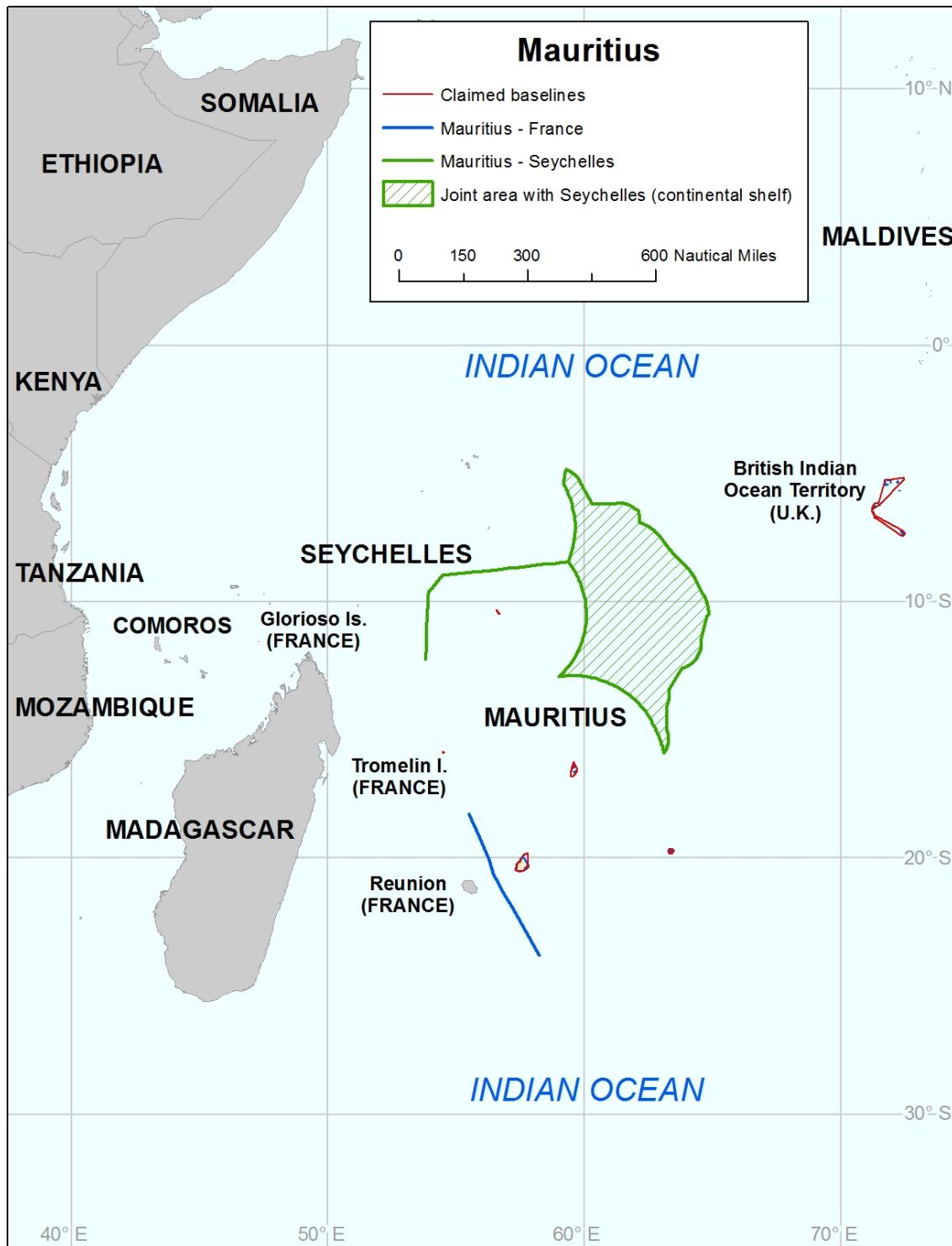
Mauritius' use of straight baselines for the island of Mauritius does not conform to the requirements of Article 7 of the LOS Convention. Mauritius' treatment of reefs, bays, and mouths of rivers generally conform to the Convention's requirements, with the exception of Mathurin Bay, which is not a juridical bay (Article 10 of the LOS Convention) and does not appear to meet the criteria for an historic bay.

**Map 1**  
**Illustrative Map of the Claimed Archipelagic and Straight Baselines of Mauritius**



## Map 2

**Illustrative Map of the Maritime Boundaries of Mauritius and Joint Management Area with Seychelles (Continental Shelf beyond 200 nm)**



## Annex 1

### **Maritime Zones (Baselines and Delineating Lines) Regulations 2005 of August 5, 2005**

#### Regulations made by the Prime Minister under sections 4, 5 and 27 of the Maritime Zones Act 2005

1. These regulations may be cited as the Maritime Zones (Baselines and Delineating Lines) Regulations 2005.
2. In these regulations - "Act" means the Maritime Zones Act 2005.
3. For the purposes of section 4 of the Act, the lists of geographical co-ordinates of points set out in the First Schedule shall be the baselines from which the maritime zones of Mauritius shall be determined.
4. For the purposes of section 5 of the Act, the lists of geographical co-ordinates of points set out in the Second Schedule shall be the closing lines to delimit the internal waters of Mauritius.

Made by the Minister on 5th August 2005.

#### FIRST SCHEDULE (regulation 3)

[Listing geographic coordinates for basepoints for the Island of Mauritius, Agalega, Saint Brandon (Cargados Carajos Shoals), Chagos Archipelago, Egmont Islands, Danger Island, Eagle Islands, Three Brothers Island; Peros Banhos, Nelsons Island, Blenheim Reef, Salomon Islands, Rodrigues Island, and Ile Tromelin.]

#### A. SECOND SCHEDULE (regulation 4)

[Listing geographic coordinates for closing line points delimiting internal waters for the Island of Mauritius, Rodrigues Island, St Brandon, Chagos Archipelago, Salomon Islands, Peros Banhos, Egmont Islands, and Diego Garcia.]

#### (b) Description of Lines Connecting the Basepoints

[Describing lines connecting the basepoints identified in the First Schedule with respect to the Island of Mauritius (straight baselines and other closing lines), Island of Rodrigues (closing lines), Saint Brandon (Cargados Carajos Shoals) (archipelagic baselines), Agalega, Tromelin Island, Chagos Archipelago (archipelagic baselines).]

[Basepoint numbers and geographic coordinates from the above schedules, along with accompanying maps, may be found at DOALOS, *Law of the Sea Bulletin* No. 67, at 13-38), at:

[http://www.un.org/Depts/los/doalos\\_publications/LOSBulletins/bulletinpfd/bulletin67e.pdf](http://www.un.org/Depts/los/doalos_publications/LOSBulletins/bulletinpfd/bulletin67e.pdf).]

## Annex 2

### **Mauritius Maritime Zone Act 2005** **Act No. 2 of 2005**

I assent  
 SIR ANEROOD JUGNAUTH  
 President of the Republic  
 28th February 2005

#### AN ACT

To provide for the United Nations Convention on the Law of the Sea to have force of law in Mauritius

ENACTED by the Parliament of Mauritius, as follows –

#### **PART I – PRELIMINARY**

##### 1. Short title

This Act may be cited as the Maritime Zones Act 2005.

##### 2. Interpretation

(1) In this Act, unless otherwise expressly provided–

“archipelagic baselines” means straight archipelagic baselines referred to in section 4(2)(a);

“archipelagic waters” means any waters, other than internal waters, enclosed by archipelagic baselines;

“baselines” means baselines prescribed in accordance with section 4;

“closing lines” means the lines prescribed in accordance with section 5(1);

“contiguous zone” means the area of sea specified in section 12;

“continental shelf” means the continental shelf of Mauritius, as defined in section 18(1);

“EEZ” means the exclusive economic zone of Mauritius, as defined in section 14;

“historic waters” means the historic waters of Mauritius prescribed under section 11;

“innocent passage” has the same meaning as in Article 19 of UNCLOS;

“internal waters” means–

(a) in respect of archipelagic waters, all waters landward of the closing lines; and

(b) in any other case, all waters landward of any baselines;

“low-water line” means the lowest astronomical tide level on the coast of Mauritius that can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions;

“maritime cultural zone” means the area of sea referred to in section 25;

“maritime zones” means the –

(a) archipelagic waters;

(b) contiguous zone;

(c) continental shelf;

(d) EEZ;

(e) historic waters;

(f) internal waters;

(g) maritime cultural zone; and

(h) territorial sea;

“nautical mile” means a distance of 1.85200 kilometres;

“outer limit”, in relation to a maritime zone, means a geodesic line of the geodetic datum joining the geographical co-ordinates of points on the datum in a clockwise direction;

“territorial sea” means the territorial sea of Mauritius, as defined in section 7;

“UNCLOS” means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) Unless otherwise expressly provided, words and expressions defined in UNCLOS and used in this Act shall have the same meaning as in UNCLOS.

## **PART II - UNCLOS TO HAVE FORCE OF LAW IN MAURITIUS**

### 3. UNCLOS to have force of law in Mauritius

Notwithstanding any other enactment, UNCLOS shall have force of law in Mauritius.

## **PART III – BASELINES**

### 4. Baselines

- (1) The Prime Minister may, by regulations, prescribe the baselines from which the maritime zones of Mauritius shall be determined.
- (2) The baselines may be -
  - (a) straight archipelagic baselines determined in the manner referred to in Article 47 of UNCLOS;
  - (b) normal baselines, being the low-water line as specified in Article 5 of UNCLOS;
  - (c) the seaward low-water line of reefs as specified in Article 6 of UNCLOS; or
  - (d) straight baselines determined in the manner referred to in Article 7 of UNCLOS; or
  - (e) a combination of the methods for determining baselines specified in paragraphs (a), (b), (c) and (d).

### 5. Closing lines for internal waters

- (1) The Prime Minister may, by regulations, prescribe closing lines to delimit internal waters.
- (2) The closing lines may be determined by using all or any of the methods specified in Articles 9, 10 and 11 of UNCLOS.

## **PART IV - TERRITORIAL SEA, INTERNAL WATERS, ARCHIPELAGIC WATERS AND HISTORIC WATERS**

### 6. Legal status of territorial sea and internal, historic and archipelagic waters

- (1) The sovereignty of Mauritius-
  - (a) extends and has always extended to –
    - (i) the territorial sea;
    - (ii) its internal waters;
    - (iii) its archipelagic waters;
    - (iv) its historic waters;
  - (b) also extends to the air space over the archipelagic waters, the historic waters, the internal waters and the territorial sea as well as to their beds and subsoil, and the resources contained in them.
- (2) Unless otherwise expressly provided, any law in force in Mauritius shall extend to its maritime zones.

### 7. Territorial sea

The territorial sea of Mauritius is and has always been the sea between the baselines and a line of which every point is at a distance of 12 nautical miles from the nearest point of the baselines.

### 8. Limits on exercise of sovereignty in internal waters

Any right of innocent passage existing in internal waters delimited by closing lines prescribed under section 5 shall continue to exist to the extent that it existed immediately before the closing lines were prescribed.

### 9. Limits on exercise of sovereignty in archipelagic waters

The exercise by Mauritius of its sovereignty in archipelagic waters shall be subject to -

(a) any rights set out in any agreement between Mauritius and any other State;

(b) rights in respect of submarine cables existing at the time the archipelagic baselines are prescribed;

and

(c) the right of innocent passage.

### 10. Limits on exercise of right of innocent passage

- (1) The Prime Minister may make regulations-

- (a) to designate the sea lanes and air routes to be used by foreign ships and aircraft in passage through or over any archipelagic waters, internal waters and territorial sea; and
- (b) to prescribe traffic separation schemes to be observed by ships in passage through narrow channels in the sea lanes.

(2) Subject to subsection (3), the Prime Minister may make regulations to regulate the passage of ships carrying hazardous waste, nuclear materials or radioactive materials through all or any part of the archipelagic waters, internal waters and territorial sea.

(3) No ship carrying radioactive materials shall pass through any part of the archipelagic waters, internal waters or territorial sea unless prior notification of the intended passage of the ship through those waters or sea has been given, and prior authorisation and consent for the passage, specifying the route to be taken by the ship, has been given, in accordance with regulations made under this section.

(4) The Prime Minister may, by notice in the Gazette, suspend temporarily the innocent passage of foreign ships in a specified area of any archipelagic waters, internal waters or territorial sea where he is satisfied that the suspension is essential for the protection of the security of Mauritius.

(5) Regulations made under this section shall provide for such action as may be taken, including stopping and boarding of ships, to ensure compliance with the regulations.

(6) In this section, "radioactive materials" means waste that, as a result of being radioactive, is subject to an international control system, or international instrument, applying specifically to radioactive materials.

#### 11. Historic waters

The Prime Minister may, by regulations, prescribe the limits of the historic waters of Mauritius.

### **PART V - CONTIGUOUS ZONE**

#### 12. Contiguous zone

The contiguous zone of Mauritius is and has always been the area of sea between the territorial sea and a line of which every point is at a distance of 24 nautical miles from the nearest point of the baselines.

#### 13. Controls in the contiguous zone

The Prime Minister may make regulations for the exercise of controls necessary in the contiguous zone to prevent and punish infringement of the customs, fiscal, immigration or sanitary laws within Mauritius, its archipelagic waters, internal waters and territorial sea.

### **PART VI - EXCLUSIVE ECONOMIC ZONE**

#### 14. Exclusive economic zone

- (1) The exclusive economic zone of Mauritius is the area beyond and adjacent to the territorial sea of Mauritius that extends to the EEZ outer limit line.
- (2) The Prime Minister may, by regulations, prescribe the EEZ outer limit line.
- (3) For the purposes of this Part, "EEZ outer limit line" means a line of which every point is at a distance of 200 nautical miles from the nearest point of the baselines.

#### 15. Rights, jurisdiction and duties of Mauritius in the EEZ

- (1) In accordance with international law and in particular Article 56 of UNCLOS, Mauritius has in the EEZ
  - (a) sovereign rights -
    - (i) to explore and exploit, conserve and manage the natural resources, whether living or nonliving, of the waters superjacent to the seabed and of the seabed and its subsoil; and
    - (ii) with regard to other activities for the economic exploitation and exploration of the EEZ, such as the production of energy from the water, currents and winds;
  - (b) jurisdiction as provided for by international law with regard to -
    - (i) the establishment and use of artificial islands, installations and structures;
    - (ii) marine scientific research;
    - (iii) the protection and preservation of the marine environment; and
  - (c) such other rights and duties as may be provided for by international law.

(2) The rights specified in this section with respect to the seabed and subsoil shall be exercised in accordance with international law and, in particular, Part VI of UNCLOS.

**16. Exercise of jurisdiction by Mauritius in the EEZ**

(1) To enable Mauritius to exercise the sovereign rights and jurisdiction which it has in the EEZ, there is extended to that zone, to the extent recognised by international law, the law in force in Mauritius.

(2) In particular, the law of Mauritius shall apply to artificial islands, installations and structures in the EEZ as if they were in the territorial sea.

**17. Authority to explore and exploit the EEZ**

The Prime Minister may make regulations to -

- (a) provide for the authorisation of persons to explore for natural resources in the EEZ, or to recover or attempt to recover any such resources, in accordance with such terms and conditions as may be determined by the Prime Minister;
- (b) regulate the laying of pipelines or cables in the EEZ;
- (c) provide for the authorisation and regulation of any drilling in the EEZ; and
- (d) regulate the construction, operation and use of -
  - (i) artificial islands;
  - (ii) installations and structures for the purposes provided for in Article 56 of UNCLOS; and
  - (iii) installations and structures which may interfere with the exercise of the rights of Mauritius in its EEZ.

**PART VII - CONTINENTAL SHELF**

**18. Continental shelf**

(1) The continental shelf of Mauritius comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory -

- (a) subject to paragraph 2 of Article 76 of UNCLOS, to the outer edge of the continental margin; or
- (b) where the outer edge of the continental margin does not extend up to that distance, a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

(2) Where, by virtue of paragraph 2 of Article 76 of UNCLOS, the outer limits of the continental shelf require to be determined in accordance with paragraphs 4 to 6 of UNCLOS, the Prime Minister may make regulations to provide for the outer limit to be determined by any method specified in paragraph 4 of Article 76 of UNCLOS.

**19. Rights of Mauritius over the continental shelf**

(1) In accordance with international law and in particular Article 77 of UNCLOS, Mauritius shall exercise sovereign rights over the continental shelf to explore it and exploit its natural resources.

(2) The rights referred to in subsection (1) shall be exclusive in that, if Mauritius does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of Mauritius.

(3) In accordance with Article 80 of UNCLOS, Mauritius has in the continental shelf the exclusive right to construct and to authorize and regulate the construction, operation and use of -

- (a) artificial islands;
- (b) installations and structures for the purposes provided for in Article 56 of UNCLOS and other economic purposes; and
- (c) installations and structures which may interfere with the exercise of the rights of Mauritius in the continental shelf.

(4) Mauritius has exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

**20. Exercise of jurisdiction by Mauritius on the continental shelf**

(1) To enable Mauritius to exercise the sovereign rights and jurisdiction it has in the continental shelf, there is extended to the continental shelf, to the extent recognised by international law, the law in force in Mauritius.

(2) In particular, the law of Mauritius shall apply to artificial islands, installations and structures on the continental shelf as if they were in the territorial sea.

#### 21. Authority to explore and exploit the continental shelf

(1) The Prime Minister may make regulations to-

- (a) provide for the authorisation of persons to explore for natural resources on the continental shelf, or to recover or attempt to recover any such resources, in accordance with such terms and conditions as may be determined by the Prime Minister;
- (b) regulate the laying of pipelines or cables in the continental shelf;
- (c) provide for the authorisation and regulation of any drilling in the continental shelf; and
- (d) regulate the construction, operation and use of –
  - (i) artificial islands;
  - (ii) installations and structures for the purposes provided for in Article 77 of UNCLOS; and
  - (iii) installations and structures which may interfere with the exercise of the rights of Mauritius in the continental shelf.

(2) For the purposes of this Part –

“natural resources” means -

- (a) the mineral and other non-living resources of the seabed and subsoil; and
- (b) the living organisms belonging to sedentary species;

“sedentary species” means organisms which, at their harvestable stage -

  - (i) are immobile on or under the seabed; or
  - (ii) are unable to move except in constant physical contact with the seabed or the subsoil.

### **PART VIII - MARINE SCIENTIFIC RESEARCH**

#### 22. Marine scientific research in the maritime zones

(1) As provided by international law and in particular Article 245 of UNCLOS, Mauritius, in the exercise of its sovereignty, has the exclusive right to regulate, authorise and conduct marine scientific research in its territorial sea.

(2) As provided by international law and in particular Article 246 of UNCLOS, Mauritius, in the exercise of its jurisdiction, has the right to regulate, authorise and conduct marine scientific research in its EEZ and on its continental shelf.

#### 23. Regulation of marine scientific research in the maritime zones

(1) Marine scientific research shall not be conducted in any maritime zone except with the express consent of the Prime Minister and in accordance with such regulations as may be made by the Prime Minister.

(2) Regulations made under subsection (1) shall-

- (a) establish procedures to ensure that consent for marine scientific research is not delayed or denied unreasonably;
- (b) ensure that any person who is given consent for marine scientific research under this section makes the results of his work available to the Government of Mauritius; and
- (c) ensure that, in appropriate cases, intellectual property rights that Mauritius has in the use of any living or non-living resource, are recognised and vested in Mauritius.

### **PART IX - UNDERWATER CULTURAL HERITAGE**

#### 24. Underwater cultural heritage in internal waters, archipelagic waters and territorial sea

(1) Mauritius, in the exercise of its sovereignty, has the exclusive right to regulate and authorise activities directed at underwater cultural heritage in its archipelagic waters, internal waters and territorial sea.

(2) The Prime Minister may, notwithstanding any other enactment, make regulations for the purpose of regulating activities specified in subsection (1).

#### 25. Maritime cultural zone

(1) The maritime cultural zone of Mauritius is an area of sea coincident with the contiguous zone.

(2) The Prime Minister may make regulations to regulate and authorise activities directed at underwater cultural heritage within the maritime cultural zone.

#### 26. Underwater cultural heritage in the EEZ and continental shelf

The Prime Minister may, notwithstanding any other enactment, make regulations to prohibit or authorize any activity directed at underwater cultural heritage in the EEZ or the continental shelf to prevent interference with the sovereign rights and jurisdiction of Mauritius.

### **PART X – MISCELLANEOUS**

#### 27. Regulations

(1) The Prime Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under this Act may provide for baselines and lines delineating maritime zones to be prescribed -

- (a) as lists of geographical coordinates of points, specifying the geodetic datum;
- (b) by reference to charts of a scale or scales adequate for ascertaining the position of the baselines and other limits; or
- (c) where it is appropriate or necessary to do so, by using both the methods specified in paragraphs (a) and (b).

(3) Without prejudice to the generality of subsection (1), regulations made by the Prime Minister under this section may, in particular -

- (a) provide that any enactment that extends to a maritime zone shall extend to that zone with such amendment as may be prescribed by the regulations;
- (b) prescribe fees, forms and procedures;
- (c) provide for the payment of royalties and other charges, and the manner in which they shall be calculated;
- (d) provide for the confiscation of property in respect of an offence committed in a maritime zone;
- (e) provide for the appointment of officers necessary for the administration of the regulations and prescribe their powers and duties.

#### 28. Offences

(1) Any person who contravenes this Act or any regulations made under this Act shall commit an offence and shall be liable -

- (a) in the case of an individual, to a fine not exceeding 30,000,000 rupees or to imprisonment for a term not exceeding 5 years;
- (b) in the case of a body corporate, to a fine not exceeding 150,000,000 rupees.

(2) Where an offence committed by a body corporate under this Act is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) a director, manager, secretary or other similar officer of the body corporate; or
- (b) person who was purporting to act in any such capacity,

that person specified in paragraph (a) or (b) as well as the body corporate, shall commit an offence and be punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

### 29. Repeal

The following enactments are repealed –

- (a) the Maritime Zones Act;
- (b) the Continental Shelf Act; and
- (c) the Territorial Sea Act.<sup>[26]</sup>

### 30. Consequential amendments

- (1) The Environment Protection Act 2002 is amended -
  - (a) In section 49, by deleting the definition of “maritime zone” and replacing it by the following definition-
    - “maritime zone” has the same meaning as in the Maritime Zones Act 2005;
  - (b) in section 51 (2), by adding immediately after paragraph (f), the following new paragraph -
    - (g) the control and prevention of pollution from or through the atmosphere, applicable to the air space under its sovereignty and to vessels flying its flag or vessels or aircraft of its registry .
- (2) The Fisheries and Marine Resources Act is amended -
  - (a) in section 2 -
    - (i) by deleting the definition of “Mauritius waters” and by inserting the following new definition in its appropriate alphabetical place –
      - “maritime zone” has the same meaning as in the Maritime Zones Act 2005;
    - (ii) by deleting the definition of “territorial waters” and by inserting the following new definition in its appropriate alphabetical place –
      - “territorial sea” has the same meaning as in the Maritime Zones Act 2005;
  - (b) in section 7(1), by deleting paragraph (a) and replacing it by the following paragraph -
    - (a) a maritime zone including, where appropriate, the seabed underlying the maritime zone;
    - (c) by deleting the words “Mauritius waters” and “territorial waters” wherever they appear and replacing them by the words “any maritime zone” and “territorial sea” respectively.
- (3) The Interpretation and General Clauses Act is amended in section 2 -
  - (a) by adding immediately after paragraph (b) the following new paragraph -
    - (c) “archipelagic waters”, “continental shelf”, “EEZ”, “historic waters”, “internal waters”, “maritime zone” and “territorial sea” have the same meaning as in the Maritime Zones Act 2005;
  - (b) by deleting the definition of “continental shelf”;
  - (c) by inserting the following definition in its appropriate alphabetical place –
    - “Mauritius waters” means the territorial sea, internal waters, archipelagic waters, historic waters, the EEZ of Mauritius, and the water superjacent to its continental shelf;
- (4) The Merchant Shipping Act is amended in section 2, by inserting immediately after the definition of “Superintendent”, the following definition -
  - “territorial waters of Mauritius” includes archipelagic waters;
- (5) The National Coast Guard Act is amended in section 2, by deleting the definition of “Maritime Zones” and replacing it by the following new definition -
  - “maritime zone” has the same meaning as in the Maritime Zones Act 2005;
- (6) The Petroleum Act is amended in section 2, by deleting the definition of “territorial sea”.

### 31. Transitional and savings provisions

- (1) Pending the determination of baselines in accordance with this Act, the baselines, territorial sea, EEZ and continental shelf shall, for the purposes of this Act, be deemed to be those that existed under the enactments repealed under section 29 immediately before their repeal.
- (2) Any area of sea designated by the Prime Minister as historic waters under the Maritime Zones Act repealed by section 29 shall, on the coming into operation of this Act, be deemed to have been designated to be, and always to have been, historic waters of Mauritius in accordance with this Act.
- (3) Any agreement made for the purposes of the enactments repealed under section 29 and in force immediately before the coming into operation of this Act -

<sup>26</sup> The baselines provisions of the Territorial Sea Act 1970 were analyzed in *Limits in the Seas* No. 41 (1972).

- (a) shall remain in force to the extent that it is not inconsistent with this Act; and
- (b) shall be deemed to have been made under this Act.

(4) The Prime Minister may make regulations making such further transitional, saving, consequential, incidental or supplementary provisions as may be necessary or expedient to bring this Act into effect.

32. Commencement

This Act shall come into operation on a day to be fixed by Proclamation.

Passed by the National Assembly on the fifteenth day of February two thousand and five.

Ram Ramjit Dowlutta  
Clerk of the National Assembly

### Annex 3

#### United Nations Convention on the Law of the Sea

##### *Article 47*

##### *Archipelagic baselines*

1. An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ration of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1.
2. The length of such baselines shall not exceed 100 nautical miles, except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.
3. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.
4. Such baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.
5. The system of such baselines shall not be applied by an archipelagic State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.
6. If a part of the archipelagic waters of an archipelagic State lies between two parts of an immediately adjacent neighbouring State, existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue and be respected.
7. For the purpose of computing the ratio of water to land under paragraph 1, land areas may include waters lying within the fringing reefs of islands and atolls, including that part of a steep-sided oceanic plateau which is enclosed or early enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau.
8. The baselines drawn in accordance with this article shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted.
9. The archipelagic State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

**Annex 4****United Nations Convention on the Law of the Sea*****Article 7******Straight baselines***

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.
2. Where because of the presence of a delta and other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective until changed by the coastal State in accordance with this Convention.
3. The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.
4. Straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except in instances where the drawing of baselines to and from such elevations has received general international recognition.
5. Where the method of straight baselines is applicable under paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.
6. The system of straight baselines may not be applied by a State in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone.

**Annex 5****United Nations Convention on the Law of the Sea**  
***Article 10***  
***Bays***

1. This article relates only to bays the coasts of which belong to a single State.
2. For the purposes of this Convention, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.
3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water mark of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.
4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 nautical miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.
5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds 24 nautical miles, a straight baseline of 24 nautical miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.
6. The foregoing provisions do not apply to so-called "historic" bays, or in any case where the system of straight baselines provided for in article 7 is applied.

## Annex 6

### Mauritius' Archipelagic Baseline Segments

#### Saint Brandon (Cargados Carajos Shoals)

Segment	Length (nm)
B38-B45	16.18
B52-B58	19.14
B58-B1	16.64

#### Chagos Archipelago

Segment	Length (nm)	Segment	Length (nm)
C50-C53	17.76	C67-C69	13.39
C53-C57	22.54	C69-C70	1.23
C57-C83	79.61	C70-C46	80.05
C83-C84	2.34	C46-C47	0.13
C84-C85	2.68	C47-C1	0.39
C85-C74	38.96	C1-C2	0.29
C74-C75	0.67	C2-C3	0.42
C75-C76	3.37	C3-C10	4.34
C76-C77	1.35	C10-C11	0.36
C77-C78	1.49	C11-C15	4.73
C78-C61	52.74	C15-C16	0.32
C61-C62	9.91	C16-C17	0.42
C62-C63	1.06	C17-C18	3.96
C63-C64	3.67	C18-C19	0.28
C64-C65	9.6	C19-C20	0.48
C65-C67	3.9	C20-C50	71.75